

REMARKS

In the First Office Action, the Examiner provisionally rejected claims 1-20 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/065,685. The Examiner rejected claims 1-20 under 35 USC §102(b) as being anticipated by Adler et al (US 5,581,465) or alternatively Engl et al (US 6,065,446).

Reconsideration and re-examination of the application considering the following remarks is respectfully requested.

Double Patenting

The Examiner provisionally rejected claims 1-20 for obviousness-type double patenting relative to claims 1-24 of copending and commonly owned Application No. 10/065,685, the parent application of this divisional. Applicant respectfully disagrees and traverses the Examiner's rejection.

The parent '685 application was filed with 24 claims that were subject to an election/restriction requirement. Applicants elected claims 1-16 for prosecution. Claims 17-22 and 24 of the parent '685 application that were non-elected claims have been renumbered as claims 14-20, respectively, of the instant application. Claims 1-13 are directed to the same subject matter as those claims in the parent that were restricted. As such, pursuant to 35 USC §121, the double patenting rejection is improper and Applicant requests that it be withdrawn.

Rejection Under 35 USC §102(b)

The Examiner rejected claims 1-20 under 35 USC §102(b) as being anticipated by Adler et al (US 5,581,465) and as being anticipated by Engl et al (US 6,065,446). Applicant respectfully disagrees and traverses the Examiner's rejection.

A rejection under 35 USC §102(b) requires that each and every element of Applicant's claimed invention be found in a single reference relied upon by the Examiner. However, the Examiner has summarily rejected all 20 of Applicants claims stating that "Adler et al [and Engl et al] teach a method for controlling an

engine comprising the steps of applying a weighting factor to the difference to generate a weighted difference and controlling the engine based on the weighted difference." The Examiner has not shown where either reference (taken alone) discloses or anticipates Applicant's claims. While each of Applicant's claims is believed to include patentably distinct features that are not disclosed in either of the references relied on by the Examiner, only the independent claims are discussed below.

With respect to claim 1, neither reference relied upon by the Examiner discloses a control system monitor that generates a desired value for a parameter that is compared with a desired value for the parameter generated by a feedback control system as disclosed and claimed by Applicant. As such, neither reference discloses determining a difference between the values, applying a weighting factor, and controlling the engine based on the weighted difference as disclosed and claimed.

With respect to claim 14, neither reference relied upon by the Examiner discloses a controller that selects a first or second engine control strategy based on the weighted difference between desired and actual engine torque.

With respect to claim 20, neither reference relied upon by the Examiner discloses a computer readable storage medium having instructions for determining a desired engine torque parameter for use by an electronic throttle control system, nor instructions for monitoring the desired engine torque parameter as claimed by Applicant.

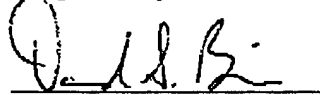
For the reasons stated above, Applicant respectfully submits that the invention is patentable over the prior art relied upon by the Examiner and requests that the rejection under 35 USC §102(b) be withdrawn. If the Examiner maintains the rejection, Applicant respectfully requests that the Examiner more particularly point out where either reference discloses each feature of Applicant's claims as required by 37 CFR §1.104(c)(2) and MPEP §706 so that Applicant can better respond to the Examiner's position.

Summary

Applicants have made a genuine effort to respond to the Examiner's rejections to advance prosecution of this application. Applicants respectfully submit that all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested.

No additional fee is believed to be due. However, please apply any fees or credits incurred as a result of filing this Amendment to Deposit Account 06-1510 (Ford Global Technologies, LLC) as authorized by the original transmittal letter in this application. If there are insufficient funds in this account, please charge the fees to Deposit Account No.06-1505.

Respectfully submitted:



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